

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 03-00236 SI

Plaintiff,

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL**

v.

NIKOLAI TEHIN,

Defendant.

Defendant Nikolai Tehin has moved the Court to vacate and set aside the judgment and sentence previously imposed pursuant to 28 U.S.C. section 2255. He argues that the U.S. Supreme Court decision in *Skilling v. United States*, 130 S. Ct. 2896 (2010), establishes that his mail fraud and money laundering convictions are invalid. Defendant has also moved for the Court to appoint counsel to represent him in this matter.

A district court may appoint counsel to represent a person seeking relief under 28 U.S.C. section 2255 whenever “the court determines that the interests of justice so require and such person is financially unable to obtain representation.” 18 U.S.C. § 3006A(a)(2)(B); *see also* 28 U.S.C. § 2255(g). The decision to appoint counsel is within the discretion of the district court. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. *See id.* Based on the materials in the court file, it does not appear that appointment of counsel is necessary in this action.

1 The motion for appointment of counsel is DENIED.

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3 **IT IS SO ORDERED.**

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5 Dated: September 2, 2011



SUSAN ILLSTON
United States District Judge